

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007
Robert J. Lemons

Attorneys for Lehman Brothers Holdings Inc.
and Certain of Its Affiliates

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re : **Chapter 11 Case No.**
:
LEHMAN BROTHERS HOLDINGS INC., et al., : **08-13555 (SCC)**
:
Debtors. : **(Jointly Administered)**
-----X

**NOTICE OF HEARING ON OBJECTION TO CLAIM OF LEHMAN BROTHERS
INVESTMENT CONSULTING (SHANGHAI) CO., LTD. (CLAIM NO. 48815)**

PLEASE TAKE NOTICE that on March 13, 2014, Lehman Brothers Holdings Inc. (“LBHI” and the “Plan Administrator”), as Plan Administrator under the Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and Its Affiliated Debtors for the entities in the above-referenced chapter 11 cases, filed its objection to Claim No. 48815 of Lehman Brothers Investment Consulting (Shanghai) Co., Ltd. (the “Objection”), and that a hearing (the “Hearing”) to consider the Objection will be held before the Honorable Shelley C. Chapman, United States Bankruptcy Judge, in Courtroom 621 of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, on **April 24, 2014 at 10:00 a.m. (prevailing Eastern Time)**, or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses to the Objection must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules

of the Bankruptcy Court, and shall be filed with the Bankruptcy Court (a) electronically in accordance with General Order M-399 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court's filing system, and (b) by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with General Order M-182 (which can be found at www.nysb.uscourts.gov), and served in accordance with General Order M-399, and on (i) the chambers of the Honorable Shelley C. Chapman, One Bowling Green, New York, New York 10004, Courtroom 621; (ii) attorneys for the Plan Administrator, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Robert J. Lemons, Esq. and Eric D. Kasenetz, Esq.); and (iii) the Office of the United States Trustee for Region 2, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: William K. Harrington, Esq., Susan Golden, Esq., and Andrea B. Schwartz, Esq.); so as to be so filed and received by no later than **April 14, 2014 at 4:00 p.m. (prevailing Eastern Time)** (the "Response Deadline").

PLEASE TAKE FURTHER NOTICE that if no responses are timely filed and served with respect to the Objection, the Plan Administrator may, on or after the Response Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Objection, which order may be entered with no further notice or opportunity to be heard offered to any party.

Dated: March 13, 2014
New York, New York

/s/ Robert J. Lemons

Robert J. Lemons

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Lehman Brothers Holdings Inc.
and Certain of Its Affiliates

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007
Robert J. Lemons

Attorneys for Lehman Brothers Holdings Inc.
and Certain of Its Affiliates

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re : **Chapter 11 Case No.**
:
LEHMAN BROTHERS HOLDINGS INC., et al., : **08-13555 (SCC)**
:
Debtors. : **(Jointly Administered)**
-----X

**OBJECTION TO CLAIM OF LEHMAN BROTHERS
INVESTMENT CONSULTING (SHANGHAI) CO., LTD. (CLAIM NO. 48815)**

TO THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE:

Lehman Brothers Holdings Inc. (“LBHI” and the “Plan Administrator”), as Plan Administrator under the Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and Its Affiliated Debtors (the “Plan”) for the entities in the above-referenced chapter 11 cases (collectively, the “Chapter 11 Estates”), respectfully represents:

Relief Requested

1. The Plan Administrator files this objection (the “Objection”), pursuant to section 502(b)(9) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), seeking disallowance and expungement of claim number 44815 (the “Claim”) filed by Lehman Brothers Investment Consulting (Shanghai) Co., Ltd. (“LBIC”) on October 27, 2009.

2. The Plan Administrator has examined the Claim and has determined that the Claim violates this Court's July 2, 2009 order setting forth the procedures and deadlines for filing proofs of claim in these chapter 11 cases (the "Bar Date Order") [ECF No. 4271], because the Claim was filed after the applicable bar date. Because the late-filed Claim fails to comply with the Bar Date Order, the Plan Administrator requests that it be disallowed and expunged in its entirety.

Jurisdiction

3. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

Background

4. Commencing on September 15, 2008, and periodically thereafter, LBHI and certain of its subsidiaries commenced with this Court voluntary cases under chapter 11 of the Bankruptcy Code. These chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015(b).

5. On July 2, 2009, this Court entered the Bar Date Order, which established, among other things, September 22, 2009, at 5:00 p.m. (Eastern Time) (the "General Bar Date") as the deadline to file proofs of claim against the Chapter 11 Estates, except for claims arising from Lehman Programs Securities (as such term was defined in the Bar Date Order). (Bar Date Order at 2, 13.) The Bar Date Order expressly provides that "any holder of a claim against the Debtors who is required, but fails to file a proof of such claim in accordance with the Bar Date Order . . . shall forever be barred, estopped, and enjoined from asserting such claim against the Debtors (or filing a Proof of Claim with respect thereto)." (*Id.* at 9-10.) A copy of the Bar Date Order was made publicly available at <http://www.lehman-docket.com>. In order to be timely-

filed, proofs of claim must have been “**actually received**” on or before the General Bar Date. (*Id.* at 3 (emphasis in original).)

6. Claimants, including LBIC, received notice of the Bar Date Order via mail. (*See* Notice of Deadlines for Filing Proofs of Claim (the “Bar Date Notice”); *see also* Corrected Affidavit of Service [ECF No. 9395], Exhibit E at p. 2457 and Exhibit F at pp. 542, 555.) The Bar Date Notice, which was also published in The New York Times (International Edition), The Wall Street Journal (International Edition), and The Financial Times, notified claimants that proofs of claim against the Chapter 11 Estates must be received on or before the General Bar Date. (Bar Date Notice at 1, 3.) The Bar Date Notice also prominently specified the General Bar Date and stated in bold-face type that “**any creditor who fails to file a Proof of Claim in accordance with the Bar Date Order on or before the Bar Date . . . for any claim such creditor holds or wishes to assert against the Debtors, will be forever barred, estopped, and enjoined from asserting such claim (and from filing a Proof of Claim with respect to such claim).**” (*Id.* at 6.) While only 35 days’ notice of a bar date is recommended by the Second Amended Procedural Guidelines for Filing Requests for Bar Date Orders in the United States Bankruptcy Court for the Southern District of New York, in this case, the Chapter 11 Estates provided creditors more than 71 days’ notice of the General Bar Date. The General Bar Date occurred more than a year after the Commencement Date, and 82 days after the entry of the Bar Date Order, providing ample time for creditors to determine, prepare, and file their claims against the Chapter 11 Estates.

7. On December 6, 2011, the Court approved and entered an order confirming the Plan [ECF No. 23023]. The Plan became effective on March 6, 2012. Pursuant

to the Plan, the Plan Administrator is authorized to interpose and prosecute objections to claims filed against the Chapter 11 Estates.

The Claim Should Be Disallowed and Expunged

8. The Claim should be disallowed and expunged on the basis that it failed to comply with the General Bar Date because it is untimely.

9. A filed proof of claim is “deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. § 502(a). If an objection refuting at least one of the claim’s essential allegations is asserted, the claimant has the burden to demonstrate the validity of the claim. *See In re Oneida Ltd.*, 400 B.R. 384, 389 (Bankr. S.D.N.Y. 2009); *In re Adelpia Commc’ns Corp.*, Case No. 02-41729 (REG), 2007 Bankr. LEXIS 660 at *15 (Bankr. S.D.N.Y. Feb. 20, 2007); *In re Rockefeller Ctr. Props.*, 272 B.R. 524, 539 (Bankr. S.D.N.Y. 2000). Moreover, Section 502(b)(9) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that “proof of such claim is not timely filed.” 11 U.S.C. § 502(b)(9).

10. “Bar dates are ‘critically important to the administration of a successful chapter 11 case.’” (Memorandum Decision Denying Motions for Leave to File Late Claims [Docket No. 9150], *In re Lehman Bros. Holdings, Inc.*, 433 B.R. 113, 119 (Bankr. S.D.N.Y. 2010) (quoting *In re Musicland Holding Corp.*, 356 B.R. 603, 607 (Bankr. S.D.N.Y. 2006)).) A bar date is more than a “procedural gauntlet” and functions as “an integral part of the reorganization process.” *In re Hooker Invs., Inc.*, 937 F.2d 833, 840 (2d Cir. 1991) (internal citation omitted). A bar date enables debtors to determine with reasonable promptness, efficiency, and finality what claims will be made against their estates—a determination without which they cannot effectively reorganize. *In re Keene Corp.*, 188 B.R. 903, 907 (Bankr. S.D.N.Y. 1995). Accordingly, bar dates are strictly enforced in the Second Circuit. *See id.*; *In re*

Lehman Bros. Holdings, Inc., 433 B.R. 113 at 119-20; *In re Musicland Holding Corp.*, 356 B.R. at 607 (“The bar date is akin to a statute of limitations, and must be strictly observed.”).

11. The Bar Date Order specifically requires proofs of claim to be **actually received** on or before the General Bar Date. (Bar Date Order at 3.) LBIC was provided notice of the Bar Date Order, including the deadline to file proofs of claim and a warning that failure to comply with the applicable bar date would result in its claims being barred. (*See* Bar Date Notice at 1, 4, 6.) Nevertheless, LBIC failed to timely file its Claim. The effective date for the Plan has occurred and distributions commenced on April 17, 2012. It would be inequitable and inappropriate for LBIC to receive distributions.

12. The Claim violates the Bar Date Order as it was untimely filed on October 27, 2009 after the passage of the General Bar Date. Accordingly, the Plan Administrator requests that the Court disallow and expunge the Claim.

Notice

13. No trustee has been appointed in these chapter 11 cases. The Plan Administrator has served notice of this Objection on (i) the United States Trustee for Region 2; (ii) the Securities and Exchange Commission; (iii) the Internal Revenue Service; (iv) the United States Attorney for the Southern District of New York; (v) LBIC; and (vi) all other parties entitled to notice in accordance with the procedures set forth in the second amended order entered on June 17, 2010 governing case management and administrative procedures for these cases [ECF No. 9635]. The Plan Administrator submits that no other or further notice need be provided.

14. No previous request for the relief sought herein has been made by the Plan Administrator or the Chapter 11 Estates to this or any other Court.

WHEREFORE the Plan Administrator respectfully requests entry of an order
granting the relief requested herein and such other and further relief as is just.

Dated: March 13, 2014
New York, New York

/s/ Robert J. Lemons
Robert J. Lemons

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Lehman Brothers Holdings Inc.
and Certain of Its Affiliates

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re : **Chapter 11 Case No.**
 :
LEHMAN BROTHERS HOLDINGS INC., et al., : **08-13555 (SCC)**
 :
Debtors. : **(Jointly Administered)**
-----X

**ORDER GRANTING OBJECTION TO CLAIM OF LEHMAN BROTHERS
INVESTMENT CONSULTING (SHANGHAI) CO., LTD. (CLAIM NO. 48815)**

Upon the objection, dated March 13, 2014 (the “Objection”),¹ of Lehman Brothers Holdings Inc., as Plan Administrator under the Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors, pursuant to section 502(b) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure, seeking to disallow and expunge claim number 48815 (the “Claim”) filed by Lehman Brothers Investment Consulting (Shanghai) Co., Ltd., all as more fully described in the Objection; and due and proper notice of the Objection having been provided, and it appearing that no other or further notice need be provided; and the Court having found and determined that the relief sought in the Objection is in the best interests of the Chapter 11 Estates, their creditors, and all parties in interest, and that the legal and factual bases set forth in the Objection establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that, for the reasons set forth in the Motion, the relief requested in the Objection is granted to the extent provided herein; and it is further

¹ Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Objection.

ORDERED that, pursuant to section 502(b)(9) of the Bankruptcy Code, the Claim is disallowed and expunged in its entirety with prejudice; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: _____, 2014
New York, New York

UNITED STATES BANKRUPTCY JUDGE